

REMARKS

No amendments are made. Claims 1-24, 31, and 33 are canceled. Applicant reserves the right to prosecute the subject matter of any canceled claim in one or more continuation, continuation-in-part, or divisional applications. Claims 25-30, 32, and 34 are pending.

Information Disclosure Statement

Applicants respectfully request the Examiner's consideration of the attached Information Disclosure Statement, as indicated by returning a signed and initialed copy of Form PTO-1449.

Rejections under 35 U.S.C §101/112, first paragraph: Lack of Utility, Enablement

Claims 25-30, 32, and 34 are rejected for lack of utility and enablement. The Examiner's arguments are based on a protein that "possesses approximately 30-40% homology to known proteins, such as a sucrose transporter in rice," (Office Action, page 3). The Examiner specifically points to proteins with Accession No. BAA24071 and CAA76367, respectively.

Applicants respectfully direct the Examiner's attention to Appendix B of the response filed by Applicant on October 23, 2003. In row 1, column 3, Appendix B shows the percent identity between the claimed Sequence ID 2 and GI 5771354 Zea mays as 91.5% sequence identity. The Examiner's attention is also directed to Aoki et al, "Molecular Cloning and Expression Analysis of a Gene for a Sucrose Transporter in Maize (Zea mays L.)", Plant Cell Physiol. 40(10), pp. 1072-1078 (1999), cited in the attached Information Disclosure Statement. In view of the disclosure of a sequence with 91.5% sequence identity to the claimed

Sequence ID 2, and the state of the art, Applicants respectfully maintain that the pending claims are enabled and have utility.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

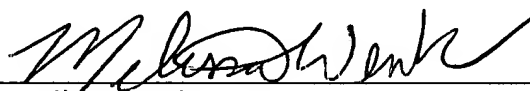
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 2119-4266. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 2119-4266. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
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Dated: October 19, 2004

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